

## Portland Harbor Superfund Site

## Draft EPA/LWG Framework for Revising the Feasibility Study

January 30, 2014

## I. Collaboration

EPA and the LWG will collaborate on the development of this FS Framework, including development and updating of project schedules, identification of key technical issues and assignment of tasks, and efficiently utilizing resources (e.g., EPA Region 10 staff and contactors, EPA partners, EPA HQ staff, and the LWG staff and contractors). EPA and the LWG will collaborate on resolutions to key technical issues with the overarching goal of resolving them in a mutually-agreeable manner at the Project Manager level.

## II. Cooperation

EPA and the LWG will share information in a timely and efficient manner in order to streamline resolution of key issues and modifications to the Draft FS. EPA and the LWG project managers will communicate regularly in order to identify key issues and problems early, streamline responses to requests from the respective parties, and identify clear deadlines for decisions and resolutions.

## III. Approach

It is difficult, if not impossible, to determine the full impact and ramifications of a particular FS decision on the overall FS analysis. For example, a technical decision in an earlier section of the document may have unforeseen ramifications on a subsequent section. Therefore, EPA and the LWG agree to engage in an informal dispute resolution process that accommodates open and free-flowing discussions and sharing of information and ideas, and retains the rights of the LWG to dispute any particular issue or EPA decision at the end of the process. A key objective of this approach is to minimize, to the extent practical, modifications to the Draft FS and to focus time and limited resources on resolving key technical issues.

The attached table titled “Process Dates Matrix” provides the draft guide discussed by EPA and the LWG for managing the informal dispute resolution process. It contains the following elements:

- List of revised FS sections and subsections;
- Key outstanding technical issues per section/subsection;
- EPA and LWG staff assigned to address/negotiate each key issue;
- Resolution/Decision deadlines for each key issue;
- Schedule for EPA to draft and submit to the LWG revised text for each section;
- The LWG review cycle for each revised section; and
- The completion date for each section.

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The table provides a potential schedule by which each of the key issue identified by EPA needs to be resolved in order for EPA to initiate text modifications to any particular section or subsection of the FS. The LWG and EPA have tentatively identified approximately 40 (forty) key issues. At EPA's request, the LWG drafted this table based on a review past EPA comments and presentations. The LWG understands that EPA will provide input and refinement of this list to finalize the list of key issues that EPA has with the draft FS. Given the number of potential issues, strict adherence to process and schedule will be necessary in order to resolve these in a timely manner to support final text editing of the FS. Therefore, the EPA and LWG Project Managers will engage in frequent non-binding discussions to identify key technical issues, key staff to address/resolve each issue, and dates by which consensus resolution or an EPA decision is needed. If the parties cannot reach consensus agreement on any particular issue by the specified deadline, and the LWG disagrees with EPA's decision, the issue will be elevated to the Senior Managers for resolution. If the senior managers cannot resolve the issue, it will be elevated further.

The EPA and LWG Project Managers will focus project resources on resolving the key technical issues in accordance with the mutually-agreed project schedule. Changes to the FS text will not be initiated until all the key issues with a particular section are resolved. After that time EPA will modify the text for the particular section consistent with the technical resolution(s) and provide the LWG with a draft for review and comment. The LWG will have 30 days to review the EPA revised text and prepare counter-revisions or responses, if necessary. EPA and the LWG will aim at resolving the revised text for each particular section within 30 days after that. The EPA may also ask the LWG to develop revised text for its review. These discussions and negotiations will be non-binding. If the parties cannot reach consensus agreement on the revised text by the specified deadline it will be elevated to the Senior Managers for resolution. If the senior managers cannot resolve the issue, it will be elevated further.

Formal Dispute on Revised FS: Once the informal dispute resolution process has ended (i.e., the key technical issues and text for each revised section of the FS has been vetted through the informal process), EPA will direct the LWG to produce the Revised FS. This directive will trigger the 14 day period for the LWG to object to the Revised FS under §XVIII of the Consent Order.